

ICO consultation on the draft right of access guidance

The right of access (known as subject access) is a fundamental right of the General Data Protection Regulation (GDPR). It allows individuals to find out what personal data is held about them and to obtain a copy of that data. Following on from our initial GDPR guidance on this right (published in April 2018), the ICO has now drafted more detailed guidance which explains in greater detail the rights that individuals have to access their personal data and the obligations on controllers. The draft guidance also explores the special rules involving certain categories of personal data, how to deal with requests involving the personal data of others, and the exemptions that are most likely to apply in practice when handling a request.

We are running a consultation on the draft guidance to gather the views of stakeholders and the public. These views will inform the published version of the guidance by helping us to understand the areas where organisations are seeking further clarity, in particular taking into account their experiences in dealing with subject access requests since May 2018.

If you would like further information about the consultation, please email SARguidance@ico.org.uk.

Please send us your response by 17:00 on **Wednesday 12 February 2020**.

Privacy statement

For this consultation, we will publish all responses received from organisations but we will remove any personal data before publication. We will not publish responses received from respondents who have indicated that they are an individual acting in a private capacity (e.g. a member of the public). For more information about what we do with personal data [see our privacy notice](#).

Please note, your responses to this survey will be used to help us with our work on the right of access only. The information will not be used to consider any regulatory action, and you may respond anonymously should you wish.

Please note that we are using the platform Snap Surveys to gather this information. Any data collected by Snap Surveys for ICO is stored on UK servers. [You can read their Privacy Policy.](#)

Q1 Does the draft guidance cover the relevant issues about the right of access?

- ☒ Yes
- ☐ No
- ☐ Unsure/don't know

If no or unsure/don't know, what other issues would you like to be covered in it?

Q2 Does the draft guidance contain the right level of detail?

- ☒ Yes
- ☐ No
- ☐ Unsure/don't know

If no or unsure/don't know, in what areas should there be more detail within the draft guidance?

Q3 Does the draft guidance contain enough examples?

- ☒ Yes
- ☐ No
- ☐ Unsure/don't know

If no or unsure/don't know, please provide any examples that you think should be included in the draft guidance.

--

Q4 We have found that data protection professionals often struggle with applying and defining 'manifestly unfounded or excessive' subject access requests. We would like to include a wide range of examples from a variety of sectors to help you. Please provide some examples of manifestly unfounded and excessive requests below (if applicable).

We receive several requests from legal firms who are acting on behalf of a client on whom we hold personal data (usually for the purposes of pursuing a personal injury claim). There are often examples where they are pursuing a claim relating to an incident that occurred after our relationship with the individual ended. We are still uncertain as to whether this constitutes a 'manifestly unfounded' request and would like more guidance. Similarly, these firms often make repeat requests if a case is ongoing and we would also like clarification on when this becomes excessive.

Q5 On a scale of 1-5 how useful is the draft guidance?

1 – Not at all useful	2 – Slightly useful	3 – Moderately useful	4 – Very useful	5 – Extremely useful
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Q6 Why have you given this score?

There is a lot of good detail and examples which are written in very clear language. It also helps to simplify things like exemptions, which could be quite opaque under previous guidance. I do however, think that there are still some key areas of clarification that are missing or that tweaking.

Q7 To what extent do you agree that the draft guidance is clear and easy to understand?

Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Q8 Please provide any further comments or suggestions you may have about the draft guidance.

In addition to my previous comments, I also think that the ICO should revise its guidance on when the clock is deemed to start on a Subject Access Request. I am sure I speak for many when I say that I am pleased that the clock can now start when identity is proved, if applicable, as I have come across a number of examples where this never materialises. I do however think that the clock ought to start when requested clarification of the request is received, because the majority of access requests that we receive are from legal firms where the text is clearly copied and pasted out to all parties receiving the request, meaning that clarification often needs to be sought and in a number of cases, is never given; which puts us in an unclear position which this guidance does not resolve.

In addition to my previous comments, I also think that the ICO should revise its guidance on when the clock is deemed to start on a Subject Access Request. I am sure I speak for many when I say that I am pleased that the clock can now start when identity is proved, if applicable, as I have come across a number of examples where this never materialises. I do however think that the clock ought to start when requested clarification of the request is received, because the majority of access requests that we receive are from legal firms where the text is clearly copied and pasted out to all parties receiving the request, meaning that clarification often needs to be sought and in a number of cases, is never given; which puts us in an unclear position which this guidance does not resolve.

Q9 Are you answering as:

- ☐ An individual acting in a private capacity (eg someone providing their views as a member of the public)
- ☒ An individual acting in a professional capacity
- ☐ On behalf of an organisation
- ☐ Other

Please specify the name of your organisation:

Activate Learning

What sector are you from:

Education

Q10 How did you find out about this survey?

- ☐ ICO Twitter account
- ☐ ICO Facebook account
- ☐ ICO LinkedIn account
- ☐ ICO website
- ☐ ICO newsletter
- ☐ ICO staff member
- ☐ Colleague
- ☐ Personal/work Twitter account
- ☐ Personal/work Facebook account
- ☐ Personal/work LinkedIn account
- ☒ Other

Thank you for taking the time to complete the survey.

